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**SOUTH DAKOTA COMMISSION ON GAMING
ADMINISTRATIVE HEARING, PROPOSED RULES HEARING, AND QUARTERLY
BUSINESS MEETING
DEADWOOD CITY HALL, DEADWOOD, SOUTH DAKOTA**

**MINUTES
March 22, 2017**

At 9:00 a.m. the meeting was called to order. Commissioner Dennis McFarland, Commissioner Karen Wagner, and Commissioner Karl Fischer were present. Commissioner Tim Holland and Commissioner Mike Wordeman were unable to attend the meeting. Staff members present for the meeting were Mike Shaw, Commission Attorney; Larry Eliason, Executive Secretary; and Craig Sparrow, Deputy Executive Secretary.

The meeting was called to order by Commissioner McFarland.

The court reporter for the hearing portion of the meeting was Carolyn Harkins. The following cases were scheduled to be heard:

Administrative Hearings

- SDCG vs. Bettor Racing, Inc. and J. Randy Gallo
- SDCG vs. Charles Johnson
- Optima LLC, Petition for Declaratory Ruling
- Aruze Gaming America, Petition for Declaratory Ruling
- Michael Adams, Key Employee License Application
- Stephanie Adams, Key Employee License Application

SDCG vs. Bettor Racing, Inc. and J. Randy Gallo

The purpose of the hearing is to take action on the Commission complaint that was filed against Bettor Racing, Inc. and against J. Randy Gallo for failing to comply or make provision for compliance with Federal law by committing three violations of the Indian Gaming Regulatory Act. Appearing for the parties were Mike Shaw on behalf of the South Dakota Commission on Gaming and Meredith Moore for Defendants Bettor Racing, Inc. and J. Randy Gallo. Also present were attorneys for the Complainant, Flandreau Santee Sioux Tribe, including its in-house counsel Seth Pearman and Patrick Bergin participating telephonically. Commissioner Fischer made a motion that Bettor Racing, Inc. and J. Randy Gallo were subject to disciplinary action by virtue of their violations of our rules and the underlying violations of the Indian Gaming Regulatory Act. Commissioner Wagner seconded the motion which carried unanimously. The Commission then allowed the parties and the Complainant to commend on what disciplinary action they should take. The decision on what action the Commission should take was deferred to Executive Session.

A brief recess was taken at 10:20 a.m. and the hearings were resumed at 10:25 a.m.

SDCG vs. Charles Johnson

The purpose of the hearing is to take action on a complaint that was filed against Charles Johnson alleging that on or about September 19, 2016 while on duty at Tin Lizzie's, a licensed gaming establishment, Mr. Johnson engaged in conduct which constituted dishonest or fraudulent conduct by taking chips from a craps table and placing the chips in a tip jar knowing that they had belonged to a player who had been escorted from the table without making any inquiry into the player's identify. The complaint also alleged that Mr. Johnson failed to take appropriate action regarding an irregularity by notifying either the cage or supervisor of the player leaving the chips on the table Mr. Johnson appeared personally at the hearing and was represented by by his attorney Roger Tellinghuisen.. The staff recommendation was that Mr. Johnson's support license be revoked and that his name be placed on the exclusion list. The decision was deferred to Executive Session.

Aruze Gaming America, Petition for Declaratory Ruling

Aruze Gaming America, represented by Cindy Omohundro and Kent Hagg, attorney, are requesting a declaratory ruling on if the petitioner's electronic gaming device with a craps theme is a slot machine as defined by South Dakota Law and Commission on Gaming regulations. Commissioner Fischer made a motion to approve the device as a slot machine. Commissioner Wagner seconded the motion which carried unanimously.

Optima, LLC Petition for Declaratory Ruling

Optima, LLC, represented by Roger Tellinghuisen, attorney, and Caleb Arceneaux, CEO of LIV Hospitality are requesting a declaratory ruling for new construction adjacent to Cadillac Jack's and access between the planned new facility and Cadillac Jack's. Commissioner Wagner made a motion to approve 1 building designation for gaming in the new building and inner access between Cadillac Jack's and the new facility.

Michael Adams, Key Employee License Application

The purpose of the hearing is to take action on Michael Adams application for a key employee license. Mike Shaw, Commission Attorney, was notified that Mr. Adams has withdrawn his key license application. No action was taken on this matter.

Stephanie Adams, Key Employee License Application

The purpose of the hearing is to take action on Stephanie Adams' application for a key employee license. Mike Shaw, Commission Attorney, was notified that Ms. Adams has withdrawn her key license application. No action was taken on this matter.

A brief recess was taken at 12:45 p.m. and the hearings were resumed at 12:50 p.m.

Proposed Rules Hearing

Racing Medication Rules

Commissioner Fischer made a motion to adopt the rule changes as amended and outlined on pages 31-40 of the meeting packet. Commissioner Wagner seconded the motion which carried unanimously.

General Meeting

Commissioner McFarland called the general meeting to order at 1:50 p.m.

Approval of Agenda

Larry Eliason, Executive Secretary, requested to add a report on the GLI Round Table to the agenda.

Conflicts of Interest

Commissioner Fischer recused himself from any actions that pertained with Ft. Pierre Horse Racing Track.

Report on GLI Round Table

Larry Eliason, Craig Sparrow, and Phil Schlieff attended the GLI Regulatory Round Table in Las Vegas and each gave a summary on the seminars attended. Commissioner McFarland requested a report at the next quarterly meeting on any new issues that were addressed at the round table.

November 16, 2016 Quarterly Meeting

Commissioner Wagner made a motion to adopt the drafted minutes from the November 16, 2016 quarterly meeting. Commissioner Fischer seconded the motion which carried unanimously.

Report on 2017 Legislative Session

Larry Eliason, Executive Secretary, gave a summary on the 2017 Legislation Session. This was for information purpose only so no action was taken.

Stipulation of Assurance and Voluntary Compliance

Saloon Gambling, Inc.

A monetary penalty of \$500.00 to be paid not later than March 3, 2017 was imposed for a complaint which was filed on December 20, 2016 alleging that the Defendant engaged in conduct constituting grounds for disciplinary action by failing to notify the Executive Secretary's designee of a patron complaint at the Saloon No. 10 on December 3, 2016 when requested to do so by the patron.

Commissioner Fischer made a motion to accept the Stipulation of Assurance and Voluntary Compliance and the imposed monetary penalty. Commissioner Wagner seconded the motion which carried unanimously.

Jim Vinson

A monetary penalty of \$200.00 to be paid not later than March 3, 2017 was imposed for a complaint which was filed on December 20, 2016 alleging that the Defendant engaged in conduct constituting grounds for disciplinary action by failing to notify the Executive Secretary's designee of a patron complaint at the Saloon No. 10, a licensed gaming establishment at which the Defendant was working as a pit boss, on December 3, 2016 when requested to do so by the patron.

Commissioner Wagner made a motion to accept the Stipulation of Assurance and Voluntary Compliance and the imposed monetary penalty.

Approval of Racing Officials for 2017 Season

**Commission Racing Officials
Verendrye Benevolent Association Racing Officials
Northeast Area Horse Racing, Inc. Racing Officials**

Commissioner Wagner made a motion to authorize Larry Eliason, Executive Secretary, to approve the Racing Officials for the 2017 season. Commissioner Fischer seconded the motion which carried unanimously.

Consulting Contracts for Professional Services for 2017 Racing Season

Center for Tox Services, Official Laboratory

Commissioner Wagner made a motion to accept the contract with Center for Tox Services for the 2017 horse racing season. Commissioner Fischer seconded the motion which carried unanimously.

Cooper Animal Clinic, Official Veterinarian Services

Commissioner Wagner made a motion to accept the contract with Cooper Animal Clinic for the 2017 horse racing season. Commissioner Fischer seconded the motion which carried unanimously.

Voting Representative at ARCI Meeting

Commissioner Wagner made a motion to designate Larry Eliason, Executive Secretary, as the "voting member" and Commissioner McFarland as the "alternate voting member" at the ARCI Annual Meeting. Commissioner Fischer seconded the motion which carried unanimously.

Deadwood Licensing Matters

Deputy Executive Secretary Sparrow recommended approval of the following:

Key License Approval

✓ Monica Moss

✓ Britton Siemonsma

Key License Renewal Ratification – Licensing Action by the Executive Secretary per 42-7B-11 (16)

✓ Carol Case

✓ Jack Jones

✓ Nicholas Moffett

✓ Joe Nonnast

✓ Erik Olsby

✓ Joshua Thurmes

✓ Beverly Bachand

✓ Ardene Lance

✓ Seth Martens

✓ Donica Schumacher

✓ Jack Sears

✓ Jim Ackland

✓ Scott Roth

✓ Bradford Baucom

✓ Shari Neyhart

✓ Jim Spears

✓ Austin Burnham

✓ Monica Conrad

✓ Steven Foss

✓ Carolyn Pope

✓ Tom Pope

Commissioner Fischer made a motion to approve the Key License approvals as staff recommended and to ratify the Key license renewals by the Executive Secretary. Commissioner Wagner seconded the motion which carried unanimously.

Business License Approval

Deputy Executive Secretary Sparrow recommended approval of the following:

✓ Approval of a Property Owners License for Optima, LLC (**0005-PO**).

✓ Approval of Sharon Gould as an additional owner on the Mineral Palace, LLC Operator and Retail gaming licenses (**187-OP, 299, 0300, 0301, 0540, 0541, 0542, 0543, 0544, & 0545-RT's**).

✓ Approval of Eileen Raney as a Director (**0176-DR**) on the Everi Holdings, Inc. Manufacture gaming license (**131-MA**).

✓ Approval of an Operator license for 1911 Holdings, LLC with Ronald J. Rivett as Manager (**10020-OP**).

Commissioner Fischer made a motion to approve the Business License approvals as staff recommended. Commissioner Wagner seconded the motion which carried unanimously.

Next Commission Meeting

Commissioner Wagner made a motion for the next commission meeting to be held on June 21, 2017. Commissioner Fischer seconded the motion which carried unanimously.

Code of Conduct

Commissioner Wagner made a motion to adopt Resolution 03-22-17 as the Code of Conduct for Commission members, employees and non employees.. Commissioner Fischer seconded the motion which carried unanimously. A copy of the Resolution is attached to these minutes.

Executive Session

Commissioner Wagner made a motion to go into Executive Session. Commissioner Fischer seconded the motion which carried unanimously.

At 1:30 p.m. the Commission went into Executive Session pursuant to SDCL 1-25-2 (3) and SDCL 42.7B-8.1 (4).

The Executive Session was concluded at 1:52 p.m. with the following actions taken.

Action on Administrative Hearings

Decision SDCOG vs. Bettor Racing Inc., and J. Randy Gallo

Commissioner Fischer made a motion to impose a monetary penalty of \$1,500.00 to be paid not later than 15 days after service of the Decision. Commissioner Wagner seconded the motion which carried unanimously.

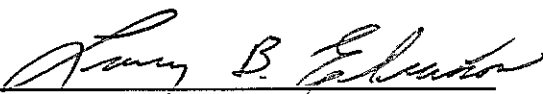
Decision SDCOG vs. Charles Johnson

Commissioner McFarland made a motion to revoke Charles Johnson's support license and that his name be placed on the list of persons to be excluded from licensed gaming establishments. Commissioner Fischer seconded the motion which carried unanimously.

With no further business to be discussed Commissioner Wagner made a motion to adjourn the meeting. Commissioner Fischer seconded the motion which carried unanimously.

The meeting was adjourned at 1:54 p.m.

Respectfully Submitted,
Kathy Fredericksen


Dennis McFarland, Vice Chairman
Larry B. Eliason, Executive Secretary

RESOLUTION NUMBER 03-22-17

The South Dakota Commission on Gaming hereby adopts the Code of Conduct as contained in the Bureau of Human Resources Employee Handbook in effect on March 22, 2017 as set forth on page 3-11 attached hereto as the Code of Conduct for Commission employees.

The Commission also adopts those sections of the Code of Conduct pertaining to acceptance of gratuities, rebates, reward points and other perquisites, anti-harassment and discrimination, conflicts of interest laws, and fraud or theft in the workplace, attached hereto, as set forth on pages 4-11 to apply to members of the Commission and non-employees.

Personal Responsibility Basics

Accepting Gratuities, Rebates, Reward Points and Other Perquisites - State employees shall not accept gratuities, money, or any type of gift or service from a company that does business or that actively aspires to do business with the State. State employees shall not accumulate reward points or receive rebates, from any source, related to the purchase of goods, services from any vendor to be redeemed for personal use.

Anti-Harassment/Discrimination Policy - Harassment, discrimination or offensive behavior based on race, color, religion, national origin, sex, age, genetic info, disability or other legally protected status or characteristic will not be tolerated. An employee who has a complaint of harassment, discriminatory or offensive behavior by a supervisor, co-worker, or non-employee, should immediately notify his or her supervisor, a higher-level supervisor, the agency's human resource manager, or BHR's EEO officer at (605) 773-4918.

Conflict of Interest - Laws apply to state employees and officers who recommend approval, approve, award or administer contracts or supervise someone who does and would derive a benefit from a contract. Deriving a benefit means the employee or officer or others with whom the person lives and commingles or has combined assets cannot:

- receive a benefit from a contract that is within that person's scope of duties while in office
- derive contract benefit for a year after leaving office
- enter into a contract with any state agency, except an employment contract, for a year after leaving office

A waiver process exists for employees and officers.

Outside Employment - You may have outside employment provided that, in the opinion of your supervisor, there is not conflict with your working hours, your work efficiency, or with the interests of state government. You must check with your supervisor before accepting other employment.

Political Activity - Civil service employees are not allowed to use official authority to influence or coerce political action by person or group. Participation in campaigns or political management is allowed outside of working hours.

Disciplinary Action- Disciplinary action may include suspension without pay, reduction in salary, demotion, or termination. Just cause for disciplinary action includes, but is not limited to:

- violating statutes, rules, policy, directives, and work rules;
- sex offense, any crime involving illegal drugs, or a felony;
- insubordination;
- disrupting the efficiency or morale of the department;
- being under the influence of a controlled drug or alcohol at work;
- misuse or abuse of leave;
- engaging in outside or personal activities on State time, or using state property for non-government purposes;
- conduct reflecting unfavorably on state, destroys confidence in operations of services, or adversely affects public trust;
- negligence with state money or property;
- poor attendance;
- and discrimination and harassment.

Use of Technology- Employees may not use State technology to engage in outside business interests, inappropriate, offensive or illegal activities. Employees should not expect privacy or confidentiality when using State resources.

Workplace Fraud or Theft- State Laws and Administrative Rules establish control and aid in the prevention and detection of fraud against State property and apply to any actual or suspected employee fraud or theft. These laws include prohibition of the following:

- salaried officers retaining money received by theft
- dual salaries for state employees (limited exceptions)
- dual compensation for state duties
- outside employment without proper approval
- negligence with money or other State property belonging to anyone receiving services from the State
- attempt to steal or stealing from anyone receiving services from the State

Employees who suspect fraud, theft should report it to their supervisor or the attorney general's office immediately.

Please report potential violations of these policies to your supervisor, department's internal control officer or human resource manager.

Policy on Acceptance of Gratuities, Rebates, Reward Points and Other Perquisites by State Employees

This policy prohibits the acceptance of personal gratuities, rebates, reward points and perquisites by state government employees in the performance of their duties.

POLICY REQUIREMENTS

1. State employees shall not accept gratuities, money, or any type of gift or service from a company that does business or that actively aspires to do business with the state of South Dakota. This section does not apply to promotional items or activities associated with business conferences where vendors provide promotional gifts and food.
2. State employees shall not accumulate reward points or receive rebates, from any source, related to the purchase of goods or services from any vendor which can be redeemed for the employee's personal use.
3. Any vendor program offering rebates or award points to the State of South Dakota related to the purchase of goods and services must be reviewed and approved by the Bureau of Administration. Rebate payments and award program points must be made payable to the "State of South Dakota", or otherwise as determined by the Commissioner of Administration.
4. This policy does not apply to frequent flier miles or lodging reward points accumulated by state employees for their State sponsored or reimbursed travel expenses. State employees using a personal credit card to pay travel expenses may accumulate frequent flier miles, reward points and rebates offered by their credit card company. In making travel decisions however, state employees must make arrangements that provide the best value for the State of South Dakota.

Rewards offered to a State officer or employee for purchasing supplies or services for the agency could reasonably be viewed as a means of influencing or rewarding the State officer or employee in how he or she carries out his or her official duties for the agency. Under these circumstances, such rewards would constitute gifts that influence or reward a State officer or employee for his or her official actions. Therefore, the redemption of these rewards by a State employee eligible to receive them as a result of their responsibilities on behalf of the State agency would violate this policy and state law. (See SDCL 3-8-3; SDCL 4-3-9)

Anti-Harassment/Discrimination Policy

The State of South Dakota will not tolerate harassment, discrimination or offensive behavior based on race, color, religion, national origin, sex (including pregnancy), age (40 years or older), genetic information, disability or any other legally protected status or characteristic.

Employees must not engage in harassment, discriminatory or offensive behavior. Additionally, because of the State's strong commitment to keeping the workplace free from harassing, discriminatory, and offensive behavior, employees must avoid any conduct that could be viewed as harassing, discriminatory or offensive even if the conduct does not violate federal or state law.

Harassment includes conduct that creates a hostile work environment or that results in a "tangible employment action," such as hiring, firing, promotion or failure to promote, demotion, work assignments, benefits, or compensation decisions. This prohibition against

harassment and discrimination also encompasses sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexually harassing nature, when: {1} submission to the harassment is made either explicitly or implicitly a term or condition of employment; {2} submission to or rejection of the harassment is used as the basis for employment decisions affecting an individual, or {3} the harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Harassment, discriminatory or offensive behavior may take different forms and may be verbal, nonverbal, or physical in nature. To aid employees in identifying inappropriate conduct, the following examples of harassment, discriminatory or offensive behavior are provided (these examples are not all-inclusive):

- unwelcome physical contact such as kissing, fondling, hugging, or touching;
- demands for sexual favors; sexual innuendoes, suggestive comments, jokes of a sexual nature, sexist put-downs, or sexual remarks about a person's body; sexual propositions, or persistent unwanted courting;
- swearing, offensive gestures, or graphic language made because of a person's race, color, religion, national origin, sex, age or disability;
- slurs, jokes, or derogatory remarks, email, or other communications relating to race, color, religion, national origin, sex, age, or disability;
- calendars, posters, pictures, drawings, display, cartoons, images, lists, e-mails, or computer activity that reflects disparagingly upon race, color, religion, national origin, sex, age or disability; or
- refusing to hire someone because you know the applicant has the breast cancer gene.

An employee who has a complaint of harassment, discriminatory or offensive behavior by anyone, including supervisors, co-workers, or non-employees, should immediately notify his or her supervisor, a higher-level supervisor, the agency's human resource manager, or the EEO officer for the Bureau of Human Resources at (605) 773-4918. The person who receives a harassment or discrimination complaint shall immediately report the matter to his or her supervisor (or a higher-level supervisor if his or her supervisor is allegedly involved in the harassment) and the agency's human resource manager.

The State will investigate all complaints. If the investigation supports charges of harassment, discrimination, a violation of this policy, or inappropriate behavior, appropriate corrective action will take place. The employee engaging in the improper behavior will be subject to discipline, up to and including termination.

The State will protect the confidentiality of harassment/ discrimination allegations to the maximum extent possible, and information will only be shared with those individuals who need to know about it. While the State cannot guarantee complete confidentiality because it cannot conduct an effective investigation without revealing certain information to the alleged harasser and potential witnesses, it will keep information as confidential as possible.

The State will not tolerate adverse treatment of employees because they report harassment, oppose discrimination in the workplace, participate in the complaint process, or provide information related to complaints. If an employee feels that he or she has been subjected to retaliation, the employee should immediately report the alleged retaliation.

to his or her supervisor, a higher-level supervisor, the agency's human resource manager, or the EEO officer for the Bureau of Human Resources.

In addition to reporting alleged harassment or discrimination to the State, an employee may file a charge of discrimination based on race, color, religion, national origin, sex, disability, or protected activity with the South Dakota Division of Human Rights (Human Rights) or may file a charge of discrimination based on race, color, religion, national origin, sex, age, disability, genetic information, or protected activity with the United States Equal Employment Opportunity Commission (EEOC). A charge of discrimination based on race, color, religion, national origin, sex, disability, or protected activity must be filed with Human Rights or with the EEOC within 300 days of the violation. A charge of age discrimination or discrimination based on genetic information must be filed with the EEOC within 180 days of the violation. These deadlines run from the last date of unlawful conduct and not from the date of the complaint to the State if resolved. Please contact the EEO officer for the Bureau of Human Resources at 605.773.4918 if you have any questions about harassment, unlawful discrimination, or this policy.

Conflict of Interest Laws

There are laws associated with conflict of interests for state employees and officers in the area of contracts. These laws apply to state officers and employees who:

- Approve, award or administer a contract
- Recommend the approval or award of a contract
- Supervise persons who approve, award or administer a contract
- Former state officers and employees for a period of one year after they leave state employment

Those who fit within the categories above cannot:

- Receive a benefit from a contract that is within that person's scope of duties while in office
- Derive a benefit from a contract for a period of one year after they leave office
- Enter into a contract with any state agency, except an employment contract for a period of one year after they leave office

The phrase administer a contract is decision making or substantive influence on decision making concerning the manner, method or means of a contract's performance or enforcement. Administer a contract does not include performing clerical tasks such as posting payments or communicating decisions made by others.

What does derive a benefit mean? A state officer or employee or *the officer's or employee's spouse, or other persons with whom the person lives and commingles or combines assets cannot:*

- Have more than a five percent ownership or other interest in an entity that is a party to the contract
- Take income, compensation or commission directly from the contract or entity that is a party to the contract;
- Acquire property under the contract

- Serve on the board of a for-profit entity that derives income or commission directly from the contract or acquires property under the contract

Waiver Process: A waiver process has been set up, which if approved, would allow the state officer or employee to a contract with state government or benefit from a contract state agency. The waiver may be granted if:

- A waiver is requested in writing. The form can be found in Conflict of Interest Waiver Instructions and Form document posted at BHR's website;
- The relevant terms of the contract or transaction are provided in writing;
- The officer reviewing the waiver has reviewed the essential terms of the contract or transaction;
- The officer reviewing the waiver has reviewed the requesting party's role in the contract or transaction; and
- The terms of the contract are fair, reasonable and not contrary to the public interest

An employee or officer who wants to request a waiver, must provide the waiver request to the cabinet secretary or commissioner with responsibility for the person's agency (or the former agency for former officers and employees). The secretary or commissioner is to act on the request within five working days of receipt. If the state officer or employee disagrees with the secretary's or commissioner's decision, the state officer or employee can submit a written appeal to the Governor's Office. A person can submit an appeal by hand delivering or emailing the request form, the secretary's or commissioner's decision and a short statement of your reason for disagreeing with the decision to Chris Houlette, Bureau of Human Resources, 500 East Capitol Avenue, Pierre, SD 57501-5070 or email Chris.Houlette@state.sd.us. The Governor will act on all appeals within five working days of receipt. The request for waiver form will be filed with the Bureau of Human Resources and is a public record.

Persons who on or after July 1, 2015, derive a benefit from a state contract in which they played a role prior to July 1, 2015, should go through the waiver process. These conflict of interest restrictions apply to those who administer contracts on or after July 1, 2015, even if the contract was awarded prior to July 1, 2015.

Transactions of \$200.00 or Less: Effective July 1, 2015, the Governor granted a blanket waiver for all transactions of \$200.00 or less. Therefore, it is not necessary to seek a waiver for otherwise covered transactions, as long as the amount is \$200.00 or less.

However, purchasing card and other small transactions are reviewed from time to time. A series of pattern of transactions that would otherwise be covered by the law may result in further inquiry and possible disciplinary action if found to be inappropriate.

Agency Specific Conflict Statutes: There may be more specific conflict of interest statutes or regulations that are agency specific. Employees are encouraged to ask supervisors as to the existence of any such regulations.

Penalties for Noncompliance: There are penalties for not complying with these conflict of interest restrictions. If a waiver is necessary but is not sought or granted, the contract that was involved may be voided and the state officer or employee may be subject to disciplinary action.

If the contract was the result of a quid pro quo, or promise for something such as a cash payment or promise of future employment, the current or former officer or employee may be removed from office and/or be subject to criminal prosecution. If the current or former state officer or employee failed to seek and obtain a waiver knowing one was likely required, the person could be removed from his or her office or position, and/or be subject to criminal prosecution.

State officers and employees may not solicit or accept any gift, favor, reward, or promise of reward, including any promise of future employment, in exchange for recommending, influencing or attempting to influence the award of a state contract. This prohibition is absolute and cannot be waived.

Resources and Questions: For more information about these restrictions and the waiver process, please see the document Conflict of Interest Waiver Instructions and Form available on the BHR website at <http://bhr.sd.gov/forms/>. To assist present or past state officers or employees to determine whether it is necessary to seek a waiver, the person can answer questions in the Conflict of Interest Waiver Decision Matrix posted on the BHR website. The matrix serves as guide and not determinative of whether a conflict exists. A Conflict of Interest PowerPoint is also available on the BHR website.

For questions about the applicability of the laws and the process for requesting a waiver, state officers and employees are encouraged to contact Bureau of Human Resources at 605.773.3148 or Chris.Houlette@state.sd.us.

Outside Employment

You may have outside employment provided that, in the opinion of your appointing authority, there is not conflict with your working hours, your work efficiency, or with the interests of state government. You must check with your supervisor before accepting other employment.

Political Activity

Civil service employees are prohibited from using their official authority to influence or coerce the political action of a person or group of people. Active participation is allowed in political management or in political campaigns except during working hours. Employees may also hold an elective office in political clubs or organizations which does not interfere with the normal performance of job responsibilities, except as prohibited by law. Employees whose positions are partially or wholly funded by federal monies are restricted from political activity by the Hatch Act. Neither state nor federal law prevents activity of a nonpartisan type not specifically identified with a national or state political party. Questions relating to constitutional amendments, referendums, approval of state laws, and other issues of similar character are not deemed specifically identified with a national or state political party. For example, school board elections and many city elections are nonpartisan.

Disciplinary Action

Disciplinary action may include suspension without pay, reduction in salary, demotion, or termination. A status employee may be disciplined for cause at any time or for unsatisfactory performance after a work improvement plan to address performance issues. Before you are disciplined, you will be notified verbally or in writing of the specific reasons for the proposed actions and provided an opportunity to present reasons why you should not be disciplined.

Discipline for Cause

Just cause for disciplinary action includes, but is not limited to:

- violating statutes, rules, policy, directives, and work rules;
- committing any sex offense, any crime involving illegal drugs, or a felony;
- insubordination;
- disrupting the efficiency or morale of the department;
- being under the influence of a controlled drug or alcohol while at work;
- misuse or abuse of leave;
- engaging in outside business or personal activities on government time, or using state property for non-government purposes;
- engaging in conduct that reflects unfavorably on the state, destroys confidence in the operations of state services, or adversely affects public trust in the state;
- poor attendance;
- negligence with state money or property; and
- discrimination and harassment.

These examples indicate the types of conduct that may be cause for disciplinary action, but is not an exhaustive list. If you have specific questions regarding causes for discipline or want to review the entire list of causes, contact your human resource representative .

Discipline for Performance

If a status employee's work performance is unsatisfactory, the employee will be notified in writing that disciplinary action may be taken unless the employee's performance improves. The employee may be placed on a work improvement plan that will last a minimum of 30 calendar days. The work improvement plan will tell the employee where the employee's performance is unsatisfactory and the level of performance that is expected. If the employee's performance does not improve to an acceptable level, or at a later date performance falls below standard, disciplinary action may be taken . Employees may be disciplined for just cause during the work improvement period.

Technology Use Policy

Employees shall use state technology (telephones, computers, Internet, email, etc.) at their disposal in an appropriate manner. As it applies to the state's e-mail and phone system(s), emergency communications are allowed. Reasonable and appropriate personal communications are allowed . Under no circumstances are employees allowed to use the state's technology to engage in outside business interests, inappropriate, offensive, or illegal activities. Abuse of the system is not acceptable. Employees should not expect privacy or confidentiality when using state resources. Use common sense. If in doubt, do not use state resources.

Statewide Remote Technology Access Policy

- Hourly employees are not required or expected to check email while outside normal or assigned working hours. Unless hourly employees are directed to provide an immediate response, emails or phone calls should be responded to only during the individual's normal working hours.
- Hourly employees, who are required to work outside of their normal work hours using mobile technology, are required to record and submit to their manager all time spent responding to emails or answering phone calls while out of the office. This must be reported to the manager the next business day.
- Hourly employees must have overtime approved by their manager. If overtime is not approved, the employees are required to flex the time.
- Employees must receive pre-approval from their manager for remotely accessing any non-public state government technology resource during the individuals' non-standard business hours. This includes state-owned or non-state owned devices. {Once approved by manager, all employees must submit a Remote Access Device {RAD} approval form for having this privilege during the individuals' non-standard business hours. The form is located at <http://intranet.bit.sd.gov/forms/rad/> and is submitted to the BIT Help Desk.}

Fraud or theft in the work place

The State of South Dakota prohibits fraud and theft in the work place.

Fraud or ***fraudulent*** means an intentional deception designed to obtain a benefit or advantage or to cause denial of some benefit that is lawfully due. Examples of fraud include:

- Forgery or alteration of a check, bank draft, or any other financial document;
- Theft of a check or other diversion of a payment made to the State;
- Improper or dishonest handling of funds, supplies, or other assets;
- Improper handling or reporting of financial transactions;
- Profiteering as a result of insider knowledge of State operations; and
- Selling or using confidential State information in the conduct of an outside business activity.

Theft means the act of taking something from someone unlawfully. An example of theft is taking equipment or supplies belonging to the State and keeping it for personal use.

The Bureau of Human Resources relies on South Dakota Codified Law and the Administrative Rules of discipline regarding what constitutes fraud in the workplace. These laws establish control and aid in the prevention and detection of fraud against State property. These laws apply to any actual or suspected fraud or theft an employee. These laws include: salaried state officers are prohibited from retaining money received by theft (SDCL 3-8-3); dual salaries for state employees are prohibited with limited exceptions (SDCL 3-8-4); dual compensation for state duties is also prohibited (ARSD 55:10:01:07); outside employment for state employees may occur with proper approval (ARSD:10:01:06); and employees who are negligent with money or other state property belonging to any person receiving services from the state or have stolen or attempted to steal money or property of the state or property belonging to any person receiving services from the state will be disciplined and or terminated (ARSD 55:10:07:04).